S.B. CIVIL MISC. APPEAL NO.1399/2006
(The Chief Manager, RSRTC Vs. Smt.Gatu Kanwar & ors.)

Date of Order :: 15.12.2006

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr.Arjun Rathore for Mr.Sangeet Lodha for the appellant

By way of this appeal, the owner of the vehicle involved in the accident seeks to question the award dated 11.07.2005 made by the Motor Accidents Claims Tribunal, Doongarpur awarding compensation in the sum of Rs.2,90,396/- to the wife and children of accident victim Khuman Singh, about 45 years in age.

On 16.12.2002 near New Bus Stand at Doongarpur, the pedestrian Khuman Singh was hit by a bus bearing registration No. RJ 12 P 579 belonging to the appellant and driven by non-applicant No.1 Abdul Rab Sheikh. The victim succumbed to injuries sustained in the accident while on way to hospital.

In the application for compensation submitted by the wife and children of the victim, the Tribunal framed necessary issues on the pleadings of the parties and the claimants apart from producing relevant documentary evidence examined PW-2 Laxman Singh an eye-witness to the accident. The non-

applicants including the present appellant did not lead any evidence. After through consideration of the evidence produced on record, the Tribunal has found the accident to have occurred for rash and negligent driving of the bus on a 22 ft. wide busy road. For quantification of compensation, the Tribunal has taken monthly income of the deceased at Rs.2,500/- by way of agriculture and labour; and deducting one-third on his personal expenditure, has taken loss of contribution at Rs.1,666/- per month leading to a multiplicand of Rs.19,992/-. In view of the deceased having completed 45 years of age, the Tribunal considered it appropriate to apply multiplier of 13 and assessed pecuniary loss at Rs.2,59,896/-. Allowing Rs.10,000/- to the wife of the deceased towards loss of consortium, Rs.5,000/- to each of the two children for loss of love and affection of their father, Rs.10,000/- towards funeral expenses and Rs.500/- towards transportation of dead body, the Tribunal has found the claimants entitled for compensation in the sum of Rs.2,90,396/-. The Tribunal has allowed interest on the payable amount at the rate of 9% per annum from the date of filing of claim application. The appellant seeks to question in this appeal the finding on the negligence of the bus driver and the quantum of compensation awarded.

Having heard learned counsel for the appellant and having examined the record of the case, this Court is satisfied that the view taken by the Tribunal remains just and proper and the award in question calls for no interference.

The victim, a pedestrian has been hit and crushed on a busy road by the bus of the appellant. It has been casually suggested in the reply to the claim application submitted by the appellant that the deceased himself was negligent and the bus could not have been driven in a crowded place in a brisk speed. The driver of the bus further attempted to suggest in his reply that the accident occurred for the attempt on the part of the deceased to board a moving bus. Reply averments remain hollow and baseless inasmuch as no evidence whatsoever has been led by the non-applicants in support of reply averments. The facts as established in the evidence of PW-2 Laxman Singh and so also from the site inspection report make it clear that the deceased was hit from behind by the bus and the finding reached by the learned Tribunal appears to be a reasonable view of the evidence available on record. Moreover, for non-production of the driver of the vehicle, an adverse inference is required to be drawn against the non-applicants. The finding on issue No.1 remains proper and calls for no interference.

So far quantum of compensation is concerned, the award made by the Tribunal remains moderate and not excessive from any standard. The Tribunal has taken income of the deceased only at Rs.2,500/- per month and loss of contribution only at Rs.1,666/- per month and has applied lower side multiplier of 13. In the ultimate analysis, the award of compensation in this case at Rs.2,90,396/- cannot be said to be excessive or exorbitant from any stand point.

In the aforesaid view of the matter, the present appeal remains absolutely bereft of substance and deserves to be dismissed without being admitted.

The appeal is, therefore, dismissed summarily.

(DINESH MAHESHWARI), J.

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